

ARTICLE IV. OPEN BURNING CONTROL**Sec. 11-61. Purpose.**

This article is enacted to protect, preserve and promote the safety, comfort, health and welfare of the citizens of the City of Madison, Alabama, through the reduction, control and prevention of open burning.

(Ord. No. 93-28, § 1, 4-27-93; Ord. No. 94-4, § 1, 1-25-94; Ord. No. 2005-01, § 1, 2-14-05)

Sec. 11-62. Definitions.

Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. The word "shall" is always mandatory and not merely directory:

Contractor shall mean the primary contractor/builder for a particular construction site or for which a building permit has been issued.

Fire chief shall mean the officer or other designated authority or their duly authorized representative charged with the administration and enforcement of the fire prevention code. He or his duly authorized representative is charged with the responsibility for investigation of all fires that occur within the City of Madison.

Fire extinguishing equipment shall mean an approved ten-pound ABC fire extinguisher or any other equipment required in writing by the fire chief.

Open burning shall mean the burning of any matter in such manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct or chimney.

(Ord. No. 93-28, § 2, 4-27-93; Ord. No. 94-4, § 2, 1-25-94; Ord. No. 2005-01, § 2, 2-14-05)

Sec. 11-63. Open burning prohibited.

No person shall cause, suffer, allow or permit open burning, except as specifically permitted by this article.

(Ord. No. 93-28, § 3, 4-27-93; Ord. No. 94-4, § 3, 1-25-94; Ord. No. 2005-01, § 3, 2-14-05)

Sec. 11-64. Exceptions to prohibition.

Following are listed exceptions to the prohibition of open burning:

(a) Open burning as specified below may be conducted, subject to the limitations as spelled out in the open burning permit which is issued upon approval of the fire chief. This grant of exception shall in no way relieve the person responsible for such open burning from the

consequences of or the damages or injuries resulting from such burning. The fire chief's approval shall be based upon his judgment as to the fire safety potential of the proposed open burning activity.

- (1) Open burning for the disposing of materials grown on that tract of land may be conducted, provided the following conditions are met:

- a. Burning is done using an air curtain destructor or other approved device, at suitable sites as approved by the fire chief, when such device is operated in a manner satisfactory to the fire chief, and with a valid open burning permit obtained from the fire chief.
- b. The burning will take place on days and hours designated by the fire chief. Designated days of burning will always be tentative and will be regulated according to weather conditions.
- c. The location of burning must be at least 1,000 feet from the nearest occupied building other than a building located on the property on which the burning is conducted. The location of burning must also be at least 1,000 feet from any public park or recreation area.
- d. Open burning must be attended by the permit holder or his designated representative at all times. Permits will be permanently revoked if left unattended. Permit holders will be billed for fire department labor, materials and equipment usage should fire department response become necessary to extinguish an unattended or rekindled fire.

(b) Fires set between October 1st and April 30th, for the purpose of providing warmth to workers at construction sites for which a building permit has been issued, providing the following conditions are met:

- (1) Any fire is contained in a noncombustible container not to exceed 55 U.S. gallons, or other similar device, with the opening covered by an ash screen.
- (2) Fire containers shall be located a minimum of 15 feet from any structure, tree, or bush, vehicle or street.
- (3) Fire containers shall be located a minimum of 15 feet from electrical lines and/or electrical service.
- (4) Only clean fuel not containing garbage, rubber, plastic, metals, shingles, treated lumber or other hazardous materials is permitted.
- (5) Fire extinguishing equipment, as defined in section 11-62 of this article, shall be located within 15 feet of the fire container.
- (6) Fires shall be extinguished when no worker is in attendance.

- (7) The contractor, as defined in section 11-62 of this article, or a subcontractor working under a contractor's building permit, shall apply in advance for a burning permit issued in his/her name from the fire chief. The party applying for the permit shall be held liable for all permit violations on the burn site.
- (8) The contractor, as defined in section 11-62 of this article, shall be responsible for any violation of this article committed on a job site for which the contractor has obtained a building permit; unless the violation is committed by a subcontractor who has obtained and subsequently violated the terms of a required burning permit.

(c) Open burning activities specified below may be conducted without an open burning permit. Notification of intent to conduct such activity as specified below shall be made to the fire chief 24 hours prior to the time the open burning activity is to begin. The person conducting any of the following open burning activities shall be responsible for the consequences of such open burning.

- (1) Fires set for the training and instruction of public or private fire-fighting personnel.
- (2) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of a fire hazard.
- (3) Smokeless flares or safety flares for the combustion of waste gases.
- (4) Fires used for agricultural, horticultural and silvicultural purposes, when specifically recommended by the Alabama Extension Service or Alabama Forestry Commission, provided such fires are conducted only in situations where the actual burning is at least 1,000 feet from the closest occupied building.
- (5) Fires used to destroy pests, germs, dead animals, etc., when the open burning is being conducted in accordance with, or under the direct supervision of, the local or state health department.
- (6) Recreational or ceremonial fires (such as school bonfires, boy scouts or girl scouts).

(d) No open burning permit or notification is required for fires used for cooking of food, including barbecues and outdoor fireplaces. Only clean fuel not containing garbage, rubber, plastics or other refuse is permitted.

(Ord. No. 93-28, § 4, 4-27-93; Ord. No. 94-4, § 4, 1-25-94; Ord. No. 2005-01, § 4, 2-14-05)

Sec. 11-65. Open burning permits.

(a) *Permits.* Open burning permits may be issued subject to specified conditions consistent with the standards provided herein, in which case the conditions shall be specified in writing. Said conditions may include limitations as to time and place, as well as duration of the permit. The holder of a permit shall comply with conditions contained in such permit, as well as all applicable provisions of this article.

(b) *Permit applications.* Application for open burning permits shall be in the form prescribed by the fire chief and shall give all the information necessary to enable the fire chief to make the determination herein required. Application shall be submitted a reasonable time in advance of the time requested for burning.

(c) *Action on application.* The fire chief shall act before close of business on the following work day on an application for an open burning permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(d) *Permit fees.* Open burning permit fees in the amount of \$50.00 per permit shall be made payable to the City of Madison and shall be non-refundable except in circumstances where it is beyond the control of the permit holder.

(e) *Revocation of permit.*

(1) *Open burning permits.* Any open burning permit granted by the fire chief may be revoked, after notice, for any of the following causes:

- a. Failure to comply with the provisions of this article.
- b. Failure to comply with any conditions of the open burning permit.
- c. For any other cause if, in the judgment of the fire chief, continuance of the permit is not consistent with the purposes of this article.

(2) *Refund.* Should the fire chief revoke the permit for reasons beyond the control of the permit holder, the fire chief will offer a refund.

(f) *Transfer.* Open burning permits shall not be transferable whether by operation of law or otherwise, either from one location to another or from one person to another.

(g) *Expiration of permit.* Open burning permits shall expire on the date specified on the face of the permit. In no event, however, may an open burning permit issued for the disposing of materials grown on that tract of land be issued which has an expiration date of longer than seven calendar days from the burn start date.

(h) *Display of permits.* Permits shall be displayed and available for inspection at the open burning site by any and all persons who may request to see the permits.

(Ord. No. 93-28, § 5, 4-27-93; Ord. No. 94-4, § 5, 1-25-94; Ord. No. 2005-01, § 5, 2-14-05)

Sec. 11-66. Exceptions based on undue hardship.

Applications for a permit for exception from the standards or requirements designated in this article may, on the basis of undue hardship, be made to the fire chief. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The fire chief may grant the exception as applied for only if the applicant represents and the fire chief finds that open burning as permitted will not violate recognized safety standards, that no other reasonable alternative is available to the applicant, and that the burning can be conducted in such a manner as to be consistent with the purposes of this article.

Upon the issuance of any exception permit, the fire chief may prescribe any reasonable conditions or requirements he deems necessary to minimize the adverse effects upon the community.

(Ord. No. 93-28, § 6, 4-27-93; Ord. No. 94-4, § 6, 1-25-94; Ord. No. 2005-01, § 6, 2-14-05)

Sec. 11-67. Penalties.

Any person who violates or fails or refuses to obtain permits required by this article or who fails or refuses to obey or comply with any provision of this article, or submits any false information required by this article, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by law.

(Ord. No. 93-28, § 7, 4-27-93; Ord. No. 94-4, § 7, 1-25-94; Ord. No. 2005-01, § 7, 2-14-05)

Sec. 11-68. Method of enforcement.

The fire chief, any person acting under his supervision, the city's code enforcement officer, and any law enforcement officer are hereby authorized to issue citations to appear in municipal court to answer charges of violation of any of the provisions of this article.

(Ord. No. 93-28, § 8, 4-27-93; Ord. No. 94-4, § 8, 1-25-94; Ord. No. 2005-01, § 8, 2-14-05)

Sec. 11-69. Exemptions.

Nothing contained in this article shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the state, or the police and fire departments in the proper performance of their duty.

(Ord. No. 94-4, § 9, 1-25-94; Ord. No. 2005-01, § 9, 2-14-05)